

## CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS O'Donovan, Ann

Kings

(b) County of Residence of First Listed Plaintiff  
(EXCEPT IN U.S. PLAINTIFF CASES)DEFENDANTS William Penn Skating, Inc.  
d/b/a Bethlehem Skateaway and/or  
"Skateaway" NorthamptonCounty of Residence of First Listed  
(IN U.S. PLAINTIFF CASES ONLY)NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE  
LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)

Aaron J. Freiwald, Esquire  
Patricia M. Giordano, Esquire  
Layser & Freiwald, P.C.  
1500 Walnut Street, 18th Floor  
Philadelphia, PA 19102  
215-875-8000

Attorneys (If Known)

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff  
☐ 2 U.S. Government Defendant  
☐ 3 Federal Question  
(U.S. Government Not a Party)  
☒ 4 Diversity  
(Indicate Citizenship of Parties  
in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for  
and One Box for Defendant)

- Citizen of This State PTF ☐ 1 DEF ☒ 1 Incorporated or Principal Place  
of Business In This State PTF ☐ 4 DEF ☒ 4  
Citizen of Another State ☒ 2 ☐ 2 Incorporated and Principal  
of Business In Another State ☐ 5 ☐ 5  
Citizen or Subject of a Foreign Country ☐ 3 ☐ 3 Foreign Nation ☐ 6 ☐ 6

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input checked="" type="checkbox"/> 360 Other Personal Injury	<b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury— Med. Malpractice <input type="checkbox"/> 365 Personal Injury— Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/ Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/ Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition			

## V. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write brief statement of cause.  
Do not cite jurisdictional statutes unless diversity.)

Premises Liability

VII. REQUESTED IN COMPLAINT: ☐ CHECK IF THIS IS A CLASS ACTION DEMAND UNDER F.R.C.P. 23

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ NoVIII. RELATED CASE(S) (See instructions):  
IF ANY

JUDGE

DOCKET  
NUMBER

DATE

3/27/06

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

## APPENDIX I

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIACASE MANAGEMENT TRACK DESIGNATION FORM

Ann O'Donovan

CIVIL ACTION

v.

William Penn Skating, Inc.  
d/b/a Bethlehem Skateaway and/or  
"Skateaway", et al.

NO.


In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a case management track designation form specifying the track to which that defendant believes the case should be assigned.

## SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. §2241 through §2255. ( )
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits ( )
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ( )
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ( )
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ( )
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

03/27/06  
Date

Aaron J. Freiwald  
Attorney-at-law

  
Attorney for

215-875-8000  
Telephone

215-875-8575  
FAX Number

ajf@layserfreiwald.com  
E-Mail Address

## UNITED STATES DISTRICT COURT

## APPENDIX F

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: Ann O'Donovan, 1649 8th Avenue, Apartment 3A, Brooklyn, NY 11215

Address of Defendant: See attached list

Place of Accident, Incident or Transaction: Bethlehem, PA  
(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?  
(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)) Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities? Yes ☐ No ☐  
RELATED CASE, IF ANY:

Case Number: \_\_\_\_\_ Judge \_\_\_\_\_ Date Terminated: \_\_\_\_\_

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?  
Yes ☐ No ☐
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?  
Yes ☐ No ☐
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?  
Yes ☐ No ☐

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☐ All other Federal Question Cases  
(Please specify)

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☒ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases  
(Please specify)

ARBITRATION CERTIFICATION

(Check appropriate Category)

I, Aaron J. Freiwald, counsel of record do hereby certify:

☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;

☐ Relief other than monetary damages is sought

DATE: 03/27/06

Aaron J. Freiwald  
Attorney-at-Law

78028

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: \_\_\_\_\_

Defendants

William Penn Skating, Inc.  
d/b/a Bethlehem Skateaway  
and/or "Skateaway"  
4500 William Penn Highway  
Bethlehem, PA 18017

Donald Holloway  
4500 William Penn Highway  
Bethlehem, PA 18017

Bruce Jones  
4500 William Penn Highway  
Bethlehem, PA 18017

SOS Inline Speed Skating Club, Inc.  
c/o SOS Speed Team  
Penncorp Service Group, Inc.  
600 N. Second Street, Suite 500  
Harrisburg, PA 17101

Ernest James Bourgeois  
4719 Cypress Avenue  
Feasterville, PA 19053

Margie Barry  
1374 Nace Avenue  
Bethlehem, PA 18015

Robert Albanese  
6480 Front Street  
Martins Creek, PA 18063

National In-Line Racing Association  
a/k/a NIRA  
3234 South Meridean  
Wichita, KS 67218

United States Amateur Confederation of Roller Skating  
d/b/a USA Roller Sports  
4730 South Street  
P.O. Box 6579  
Lincoln, NE 68506

UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF PENNSYLVANIA

ANN O'DONOVAN  
1649 8<sup>th</sup> Avenue  
Apartment 3A  
Brooklyn, NY 11215

Plaintiff

v.

WILLIAM PENN SKATING, INC.  
d/b/a BETHLEHEM SKATEAWAY  
and/or "SKATEAWAY"

4500 William Penn Highway  
Bethlehem, PA 18017

and

DONALD HOLLOWAY  
4500 William Penn Highway  
Bethlehem, PA 18017

and

BRUCE JONES  
4500 William Penn Highway  
Bethlehem, PA 18017

and

SOS INLINE SPEED SKATING CLUB,  
INC., c/o SOS SPEED TEAM  
PennCorp Service Group, Inc.  
600 N. Second Street, Suite 500  
Harrisburg, PA 17101

and

ERNEST JAMES BOURGEOIS  
4719 Cypress Avenue  
Feasterville, PA 19053

and

MARGIE BARRY  
1374 Nace Avenue  
Bethlehem, PA 18015

and

ROBERT ALBANESE  
6480 Front Street  
Martins Creek, PA 18063

and

CIVIL ACTION

NO.

JURY TRIAL DEMANDED



NATIONAL IN-LINE RACING :  
ASSOCIATION a/k/a NIRA :  
3234 South Meridean :  
Wichita, KS 67218 :  
and :  
UNITED STATES AMATEUR :  
CONFEDERATION OF ROLLER- :  
SKATING, d/b/a USA ROLLER :  
SPORTS :  
4730 South Street :  
P.O. Box 6579 :  
Lincoln, NE 68506 :  
Defendants. :

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**COMPLAINT**

**PARTIES**

Plaintiff, Ann O'Donovan, alleges the following as part of this Civil Action Complaint:

1. Plaintiff is an adult individual who resides at 1649 8<sup>th</sup> Avenue, Apartment 3A, Brooklyn, New York 11215.
2. Defendant William Penn Skating, Inc., d/b/a Bethlehem Skateaway and/or Skateaway ("Bethlehem Skateaway") a corporation or other legal entity licensed to do business in Pennsylvania, owns and operates a roller skating rink located at 4500 William Penn Highway, Bethlehem, Northampton County, Pennsylvania.
3. Defendant SOS Inline Speed Skating Club, Inc., the successor in interest to SOS Speed Team ("SOS Speed Team"), is an in-line skating team that sponsors events, competitions and meets at William Penn Skating, Inc. d/b/a Bethlehem Skateaway and/or Skateaway.
4. Upon information and belief, SOS Speed Team's business address is 4500 William Penn Highway, Bethlehem, Pennsylvania, and/or 1374 Nace Avenue, Bethlehem, Pennsylvania.

5. Donald Holloway, who has a business address at 4500 William Penn Highway, Bethlehem, Pennsylvania is the President, Secretary and Treasurer of William Penn Skating, Inc.

6. Bruce Jones, who has a business address at 4500 William Penn Highway, Bethlehem, Pennsylvania is the Treasurer of William Penn Skating, Inc.

7. Defendant, Ernest James "Jim" Bourgeois is an individual residing at 4719 Cypress Ave., Feasterville, Pennsylvania 19053. Mr. Bourgeois was an event/meet director of the SOS "Pre-Superbowl Classic" at Bethlehem Skateaway on January 30, 2005.

8. Margie Barry, is an individual residing at 1374 Nace Avenue, Bethlehem, Pennsylvania. Ms. Barry was an event/meet director of the SOS "Pre-Superbowl Classic" held at Bethlehem Skateaway on January 30, 2005.

9. Robert "Bob" Albanese, is an individual residing at 6480 Front Street, Martins Creek, Pennsylvania. Mr. Albanese was an event/meet director of the SOS "Pre-Bowl Superbowl Classic" held at Bethlehem Skateaway on January 30, 2005.

10. Defendant National In-Line Racing Association, a/k/a NIRA ("NIRA"), is an association that regulates the sport of in-line speed skating throughout the United States. NIRA's national headquarters are located at 3234 South Meridean, Wichita, Kansas.

11. Defendant United States Amateur Confederation of Roller Skating, d/b/a USA Roller Sports ("USA Roller Sports"), is the national governing body for competitive roller sports in the United States. Its principal place of business is located at 4730 South Street, P.O. Box 6579, Lincoln, Nebraska 68506.

**JURISDICTION AND VENUE**

12. Plaintiff's cause of action arises out of catastrophic physical injuries she sustained as a result of the negligence of the defendants.

13. Jurisdiction is proper in this Court because of the complete diversity of the parties, pursuant to 42 U.S. § 1332(a). The amount in controversy exceeds \$150,000.00.

14. Venue in the Eastern District of Pennsylvania is proper under 28 U.S.C. §1391 because the events or omissions giving rise to this action occurred in Bethlehem, Northampton County, Pennsylvania, which is located in the Eastern District of Pennsylvania.

**FACTUAL BACKGROUND**

15. Ann O'Donovan, whose date of birth is June 28, 1965, joined the Empire Speed Skating Club, a division of Empire Skate Club of New York, sometime before January 29, 2005.

16. The Empire Skate Club of New York is an organization of in-line skaters.

17. Bethlehem Skateaway, which is open to the public, also rents facilities for private events and is the home rink of the SOS Speed Team.

18. Bethlehem Skateaway is both an NIRA and USA Roller Sports approved rink.

19. SOS Speed Team is an in-line speed team that skates at Bethlehem Skateaway.

20. In addition, the SOS Speed Team sponsors and promotes in-line racing events, competitions and meets at Bethlehem Skateaway.

21. SOS Speed Team was the sponsor of the "Pre-Superbowl Classic," an NIRA race event, held at Bethlehem Skateaway on January 30, 2005.

22. NIRA is an association that regulates the sport of in-line skating and sanctions events, competitions and meets at NIRA-approved tracks.



23. According to its website, NIRA is dedicated to advancing and promoting the sport of in-line speed skating.

24. NIRA's board of directors includes national and world championship skaters, world and national team members and coaches, and distributors of speed skating equipment.

25. NIRA publishes rules and regulations relating to in-line, indoor speed skating.

26. NIRA, originally incorporated in 1995 as a not-for-profit corporation, was formally recognized in 2000 by the United States Association of Roller Sports, which is the national governing body for roller sports, as an independent roller sports group, Class VII member.

27. USA Roller Sports offers memberships to individuals and organizations in eight classes.

28. Class I membership is offered to individual athletes and Class VII membership is offered to independent, competitive roller skating groups.

29. At all relevant times, Ann O'Donovan was a Class I member of USA Roller Sports.

30. USA Roller Sports offers medical insurance for individually-registered USA Roller Sports members for injuries that may occur during organized and supervised practice sessions.

31. Sometime before January 29, 2005, the SOS Speed Team advertised and marketed a skating event called the "Pre-Superbowl Classic (NIRA racing on the East Coast)" to be held at the Bethlehem Skateaway on January 30, 2005 (the "Skateaway Event").

32. The announcement for the Skateaway Event stated that the meet would be held on an NIRA track.

33. The Skateaway Event directors were Robert "Bob" Albanese, Jim Bourgeois and Margie Barry.

34. On January 29, 2005, Ann O'Donovan and other members of the Empire Speed Team traveled from New York to the Bethlehem Skateaway to attend and participate in the Skateaway Event.

35. In preparation for the Skateaway Event, SOS sponsored an official practice sanctioned by NIRA and USA Roller Sports.

36. The practice was held during the evening hours of January 29, 2005 at Bethlehem Skateaway.

37. Upon information and belief, about thirty (30) skaters from several teams competing in the meet, including Empire Speed Skate, participated in the officially sanctioned practice.

38. Bethlehem Skateaway's track is NIRA approved.

39. Along the perimeter of the rink are several recessed, exterior double doorways, each of which is surrounded by a metal jamb, that forms a 90 degree angle between the rink's outer wall and the door. These doors sit several inches back from the metal jamb.

40. On January 29, 2005, while skating in a pace line, Ann O'Donovan fell near one of the exterior doorways.

41. Ann O'Donovan slid along the floor diagonally toward the exterior doorway and her right foot hit the corner of the door jamb where the jamb formed a 90 degree angle to meet the door.

42. There was no safety guard or other protective device in this doorway which would have caused the wall of the Bethlehem Skateaway to be flush with the doorway.

43. The absence of a safety guard or protective device in this doorway created an unreasonably dangerous condition to skaters at Bethlehem Skateaway including plaintiff Ann O'Donovan.

44. The following day, a wooden safety guard was placed in the same doorway to serve as a safety and protective measure for the benefit of skaters.

45. The purpose of the wooden safety guards is to prevent skaters from sustaining severe injuries in the event of a crash into the doorway, such as that which occurred to Ann O'Donovan.

46. Placing a protective bar in the doorway, as was done on the day of the competition itself, is standard and a reasonable practice for roller rinks that have doorways along the perimeter of the skating arena.

47. The absence of a safety guard or other protective device permitted Ann O'Donovan to slide directly into the doorway.

48. As a consequence of the absence of a safety guard and/or protective device, Ann O'Donovan's right foot hit the door jamb, causing her to sustain a catastrophic compound fracture to her right lower leg such that the bone splintered and broke through her skin.

49. An ambulance was called to the rink and transported Ann O'Donovan to St. Luke's Hospital, Bethlehem, Pennsylvania where she underwent emergency surgery.

50. Ann O'Donovan remained at St. Luke's Hospital until February 4, 2005, when she was transferred by ambulance to the New York University Medical Center, where she underwent numerous surgeries. Ann O'Donovan was discharged from New York University Medical Center on March 1, 2005.

51. Ann O'Donovan was readmitted to the New York University Medical Center on two more occasions between March and July of 2005 for additional procedures and spent nearly two weeks at the Rusk Institute of Rehabilitation Medicine in April and May of 2005.

52. As a result of the fracture she sustained at Bethlehem Skateaway, Ms. O'Donovan has undergone numerous surgeries, including an open reduction internal fixation and a bone graft.

53. As a result of her debilitating injuries, Ann O'Donovan received home health care services for several weeks and was forced to use a wheelchair and crutches for several months to assist with ambulation. She continues to undergo extensive outpatient physical therapy.

54. As a result of her debilitating injuries, Ann O'Donovan was unable to return to her employment as a school teacher in the City of New York for some 13 months.

55. As a result of her injuries, Ann O'Donovan has only been able to return to work on a part time basis.

56. As a result of the negligence of defendants, as described below, Ann O'Donovan has suffered in the past and continues to suffer the following injuries, some of which are permanent:

- (a) catastrophic fracture of the right lower extremity;
- (b) need for multiple surgeries to treat fracture;
- (c) prolonged hospitalizations;
- (d) permanent scarring and disfigurement of the leg;
- (e) persistent swelling of the leg;
- (f) extensive physical therapy;
- (g) depression;
- (h) pain with ambulation;
- (i) embarrassment;
- (j) humiliation;
- (j) loss of life's pleasures;

- (k) past pain and suffering;
- (l) future pain and suffering;
- (m) past mental anguish;
- (n) future mental anguish;
- (o) past medical expenses;
- (p) future medical expenses;
- (q) decreased earnings capacity;
- (r) incidental and other expenses;
- (s) lost earning capacity;
- (t) lost wages; and
- (u) other injuries as documented in the report(s) of plaintiff's treating physician(s) and medical records.

57. Bethlehem Skateaway's hazards, to wit, the unprotected doorway, were known or should have been known to all defendants.

58. Defendants failed to properly identify and warn of the hazardous condition of the property to business invitees including Ann O'Donovan.

59. Prior to the incident giving rise to this complaint, defendants knew or should have known of the defective and hazardous condition of the property, namely the unprotected doorway, and failed to take any precautions to make the area safe or to take other proper safety precautions that would have prevented the injuries suffered by Ann O'Donovan.

60. At all relevant times, defendants knew or should have known of the risk that the unprotected doorway presented to its business invitees, including Ann O'Donovan.



61. At all relevant times, defendants knew or had reason to know of the unsafe condition of the unprotected doorway and did not utilize due care for the protection of its business invitees, including Ann O'Donovan.

62. Defendants' failure to properly safeguard the doorway created a dangerous and hazardous condition for business invitees including plaintiff Ann O'Donovan.

63. As a direct and proximate result of the negligence of the defendants, Ann O'Donovan has suffered permanent, severe and disabling personal injuries that are more fully described below.

**COUNT ONE - NEGLIGENCE**

**Plaintiff Ann O'Donovan v. William Penn Skating, Inc. d/b/a Bethlehem Skateaway  
and/or Skateaway**

64. The previous paragraphs are incorporated herein by reference.

65. The negligence and carelessness of defendant William Penn Skating, Inc. d/b/a Bethlehem Skateaway and/or Skateaway and its agents, servants and employees, included the following:

- (a) Creating a dangerous condition of the property, to wit, the unprotected doorway;
- (b) Creating a hazardous condition of the property, to wit, the unprotected doorway;
- (c) Failure to provide a safe and hazard-free environment for its business invitees, including Ann O'Donovan;
- (d) Failing, despite actual and/or constructive knowledge, to maintain its premises in a safe and hazard-free condition for the protection of its business invitees, including Ann O'Donovan;
- (e) Failure to ensure a safe and hazard-free condition for its business invitees, including Ann O'Donovan;
- (f) Failure to correct the dangerous condition that existed on the premises;

- (g) Failure to inspect the area where the incident occurred to ensure a safe environment for its business invitees;
- (h) Failure to take appropriate measures to anticipate an incident such as that which occurred to Ann O'Donovan;
- (i) Negligence under the Restatement of Torts (2d) §343;
- (j) Failure to exercise reasonable and prudent care under the circumstances;
- (k) Failure to provide proper management of the premises to include proper maintenance and inspection of the roller skating rink to ensure its safety;
- (l) Failure to take proper precautions to eliminate the dangerous condition of the premises on the date and time in question;
- (m) Failure to comply with applicable local, state and federal regulations regarding maintenance of a roller skating rink; and
- (n) Failure to warn business invitees, including Ann O'Donovan, of the dangerous condition of the premises.

WHEREFORE, plaintiff demands compensatory damages against defendant William Penn Skating, Inc. d/b/a Bethlehem Skateaway and/or Skateaway, individually, jointly and severally, in an amount in excess of One Hundred and Fifty Thousand Dollars (\$150,000.00) exclusive of costs, pre-judgment interest and post-judgment interest.

**COUNT TWO - NEGLIGENCE**

**Plaintiff Ann O'Donovan v. Donald Holloway**

- 66. The previous paragraphs are incorporated herein by reference.
- 67. The negligence and carelessness of defendant Donald Holloway, included the following:
  - (a) Creating a dangerous condition of the Bethlehem Skateaway property, to wit, the unprotected doorway;

- (b) Creating a hazardous condition of the Bethlehem Skateaway property, to wit, the unprotected doorway;
- (c) Failure to provide a safe and hazard-free environment for business invitees, including Ann O'Donovan, of Bethlehem Skateaway;
- (d) Failing, despite actual and/or constructive knowledge, to maintain Bethlehem Skateaway in a safe and hazard-free condition for the protection of its business invitees, including Ann O'Donovan;
- (e) Failure to ensure a safe and hazard-free condition for business invitees, including Ann O'Donovan of Bethlehem Skateaway;
- (f) Failure to correct the dangerous condition that existed on the premises of Bethlehem Skateaway;
- (g) Failure to inspect Bethlehem Skateaway to ensure a safe environment for its business invitees;
- (h) Failure to take appropriate measures to anticipate an incident such as that which occurred to Ann O'Donovan;
- (i) Negligence under the Restatement of Torts (2d) §343;
- (j) Failure to exercise reasonable and prudent care under the circumstances;
- (k) Failure to provide proper management of Bethlehem Skateaway to include proper maintenance and inspection to ensure its safety;
- (l) Failure to take proper precautions to eliminate the dangerous condition at issue of Bethlehem Skateaway on the date and time in question;
- (m) Failure to comply with applicable local, state and federal regulations regarding maintenance of a roller skating rink; and
- (n) Failure to warn business invitees, including Ann O'Donovan, of the dangerous condition of Bethlehem Skateaway.

WHEREFORE, plaintiff demands compensatory damages against defendant Donald Holloway, individually, jointly and severally, in an amount in excess of One Hundred and Fifty

Thousand Dollars (\$150,000.00) exclusive of costs, pre-judgment interest and post-judgment interest.

**COUNT THREE - NEGLIGENCE**  
**Plaintiff Ann O'Donovan v. Bruce Jones**

68. The previous paragraphs are incorporated herein by reference.
69. The negligence and carelessness of defendant Bruce Jones, included the following:
- (a) Creating a dangerous condition of the Bethlehem Skateaway property, to wit, the unprotected doorway;
  - (b) Creating a hazardous condition of the Bethlehem Skateaway property, to wit, the unprotected doorway;
  - (c) Failure to provide a safe and hazard-free environment for business invitees, including Ann O'Donovan, of Bethlehem Skateaway;
  - (d) Failing, despite actual and/or constructive knowledge, to maintain Bethlehem Skateaway in a safe and hazard-free condition for the protection of its business invitees, including Ann O'Donovan;
  - (e) Failure to ensure a safe and hazard-free condition its business invitees, including Ann O'Donovan, of Bethlehem Skateaway;
  - (f) Failure to correct the dangerous condition that existed on the premises of Bethlehem Skateaway;
  - (g) Failure to inspect Bethlehem Skateaway to ensure a safe environment for its business invitees;
  - (h) Failure to take appropriate measures to anticipate an incident such as that which occurred to Ann O'Donovan;
  - (i) Negligence under the Restatement of Torts (2d) §343;
  - (j) Failure to exercise reasonable and prudent care under the circumstances;
  - (k) Failure to provide proper management of Bethlehem Skateaway to include proper maintenance and inspection to ensure its safety;

- (l) Failure to take proper precautions to eliminate the dangerous condition at issue of Bethlehem Skateaway on the date and time in question;
- (m) Failure to comply with applicable local, state and federal regulations regarding maintenance of a roller skating rink; and
- (n) Failure to warn business invitees, including Ann O'Donovan, of the dangerous condition of Bethlehem Skateaway.

WHEREFORE, plaintiff demands compensatory damages against defendant, Bruce Jones, individually, jointly and severally, in an amount in excess of One Hundred and Fifty Thousand Dollars (\$150,000.00) exclusive of costs, pre-judgment interest and post-judgment interest.

**COUNT FOUR - NEGLIGENCE**

**Plaintiff Ann O'Donovan v. SOS Inline Speed Skating Club, Inc., a/k/a SOS Speed Team**

70. The previous paragraphs are incorporated herein by reference.

72. The negligence and carelessness of defendant SOS Speed Team and its agents, servants and employees, included the following:

- (a) Creating a dangerous condition at the Bethlehem Skateaway property, to wit, the unprotected doorway;
- (b) Creating a hazardous condition at the Bethlehem Skateaway property, to wit, the unprotected doorway;
- (c) Failure to provide a safe and hazard-free environment for its business invitees, including Ann O'Donovan;
- (d) Failing, despite actual and/or constructive knowledge, to maintain Bethlehem Skateaway in a safe and hazard-free condition for the protection of its business invitees, including Ann O'Donovan;



- (e) The failure to insure a safe and hazard-free condition for its business invitees, including Ann O'Donovan;
- (f) Failure to properly maintain the premises of Bethlehem Skateaway;
- (g) Failure to correct the dangerous condition that existed on the premises of Bethlehem Skateaway;
- (h) Failure to inspect the area where the incident occurred to insure a safe environment for its business invitees;
- (i) Failure to take appropriate measures to anticipate an incident such as that which occurred to Ann O'Donovan;
- (j) Negligence under the Restatement of Torts (2d) §343;
- (k) Failure to exercise reasonable and prudent care under the circumstances;
- (l) Failure to provide proper management of Bethlehem Skateaway to include proper maintenance and inspection of the roller skating rink;
- (m) Failure to take proper precautions to eliminate the dangerous condition of the Bethlehem Skateaway premises on the date and time in question;
- (n) Failure to comply with applicable local, state and federal regulations regarding maintenance of a roller skating rink; and
- (o) Failure to warn business invitees, including Ann O'Donovan, of the dangerous condition of the Bethlehem Skateaway premises.

WHEREFORE, plaintiff demands compensatory damages against defendant, SOS Inline Speed Skating Club, Inc. a/k/a SOS Speed Team, individually, jointly and severally, in an amount in excess of One Hundred and Fifty Thousand Dollars (\$150,000.00) exclusive of costs, pre-judgment interest and post-judgment interest.

**COUNT FIVE - NEGLIGENCE**  
**Plaintiff Ann O'Donovan v. Jim Bourgeois**

73. The previous paragraphs are incorporated herein by reference.

74. The negligence and carelessness of defendant Jim Bourgeois and his agents, servants and employees, included the following:

- (a) Creating a dangerous condition of the Bethlehem Skateaway property, to wit, the unprotected doorway;
- (b) Creating a hazardous condition of the Bethlehem Skateaway property, to wit, the unprotected doorway;
- (c) Failure to provide a safe and hazard-free environment for its business invitees, including Ann O'Donovan;
- (d) Failing, despite actual and/or constructive knowledge, to maintain Bethlehem Skateaway in a safe and hazard-free condition for the protection of its business invitees, including Ann O'Donovan;
- (e) The failure to insure a safe and hazard-free condition for its business invitees, including Ann O'Donovan;
- (f) Failure to properly maintain the premises of Bethlehem Skateaway;

- (g) Failure to correct the dangerous condition that existed on the premises of Bethlehem Skateaway;
- (h) Failure to inspect the area where the incident occurred to insure a safe environment for its business invitees;
- (i) Failure to take appropriate measures to anticipate an incident such as that which occurred to Ann O'Donovan;
- (j) Negligence under the Restatement of Torts (2d) §343;
- (k) Failure to exercise reasonable and prudent care under the circumstances;
- (l) Failure to provide proper management of Bethlehem Skateaway to include proper maintenance and inspection of the roller skating rink;
- (m) Failure to take proper precautions to eliminate the dangerous condition of the Bethlehem Skateaway premises on the date and time in question;
- (n) Failure to comply with applicable local, state and federal regulations regarding maintenance of a roller skating rink; and
- (o) Failure to warn business invitees, including Ann O'Donovan, of the dangerous condition of the Bethlehem Skateaway premises.

WHEREFORE, plaintiff demands compensatory damages against defendant, Jim Bourgeois, individually, jointly and severally, in an amount in excess of One Hundred and Fifty Thousand Dollars (\$150,000.00) exclusive of costs, pre-judgment interest and post-judgment interest.

**COUNT SIX - NEGLIGENCE**  
**Plaintiff Ann O'Donovan v. Margie Barry**

75. The previous paragraphs are incorporated herein by reference.

76. The negligence and carelessness of defendant Margie Barry and her agents, servants and employees, included the following:

- (a) Creating a dangerous condition of the Bethlehem Skateaway property, to wit, the unprotected doorway;
- (b) Creating a hazardous condition of the Bethlehem Skateaway property, to wit, the unprotected doorway;
- (c) Failure to provide a safe and hazard-free environment for its business invitees, including Ann O'Donovan;
- (d) Failing, despite actual and/or constructive knowledge, to maintain Bethlehem Skateaway in a safe and hazard-free condition for the protection of its business invitees, including Ann O'Donovan;
- (e) The failure to insure a safe and hazard-free condition for its business invitees, including Ann O'Donovan;
- (f) Failure to properly maintain the premises of Bethlehem Skateaway;
- (g) Failure to correct the dangerous condition that existed on the premises of Bethlehem Skateaway;
- (h) Failure to inspect the area where the incident occurred to insure a safe environment for its business invitees;
- (i) Failure to take appropriate measures to anticipate an incident such as that which occurred to Ann O'Donovan;
- (j) Negligence under the Restatement of Torts (2d) §343;
- (k) Failure to exercise reasonable and prudent care under the circumstances;
- (l) Failure to provide proper management of Bethlehem Skateaway to include proper maintenance and inspection of the roller skating rink;
- (m) Failure to take proper precautions to eliminate the dangerous condition of the Bethlehem Skateaway premises on the date and time in question;
- (n) Failure to comply with applicable local, state and federal regulations regarding maintenance of a roller skating rink; and

- (o) Failure to warn business invitees, including Ann O'Donovan, of the dangerous condition of the Bethlehem Skateaway premises.

WHEREFORE, plaintiff demands compensatory damages against defendant, Margie Barry, individually, jointly and severally, in an amount in excess of One Hundred and Fifty Thousand Dollars (\$150,000.00) exclusive of costs, pre-judgment interest and post-judgment interest.

**COUNT SEVEN - NEGLIGENCE**  
**Plaintiff Ann O'Donovan v. Robert Albanese**

- 77. The previous paragraphs are incorporated herein by reference.
- 78. The negligence and carelessness of defendant Robert "Bob" Albanese and his agents, servants and employees, included the following:
  - (a) Creating a dangerous condition of the Bethlehem Skateaway property, to wit, the unprotected doorway;
  - (b) Creating a hazardous condition of the Bethlehem Skateaway property, to wit, the unprotected doorway;
  - (c) Failure to provide a safe and hazard-free environment for its business invitees, including Ann O'Donovan;
  - (d) Failing, despite actual and/or constructive knowledge, to maintain Bethlehem Skateaway in a safe and hazard-free condition for the protection of its business invitees, including Ann O'Donovan;
  - (e) The failure to insure a safe and hazard-free condition for its business invitees, including Ann O'Donovan;
  - (f) Failure to properly maintain the premises of Bethlehem Skateaway;
  - (g) Failure to correct the dangerous condition that existed on the premises of Bethlehem Skateaway;
  - (h) Failure to inspect the area where the incident occurred to insure a safe environment for its business invitees;



- (i) Failure to take appropriate measures to anticipate an incident such as that which occurred to Ann O'Donovan;
- (j) Negligence under the Restatement of Torts (2d) §343;
- (k) Failure to exercise reasonable and prudent care under the circumstances;
- (l) Failure to provide proper management of Bethlehem Skateaway to include proper maintenance and inspection of the roller skating rink;
- (m) Failure to take proper precautions to eliminate the dangerous condition of the Bethlehem Skateaway premises on the date and time in question;
- (n) Failure to comply with applicable local, state and federal regulations regarding maintenance of a roller skating rink; and
- (o) Failure to warn business invitees, including Ann O'Donovan, of the dangerous condition of the Bethlehem Skateaway premises.

WHEREFORE, plaintiff demands compensatory damages against defendant, Margie Barry, individually, jointly and severally, in an amount in excess of One Hundred and Fifty Thousand Dollars (\$150,000.00) exclusive of costs, pre-judgment interest and post-judgment interest.

**COUNT EIGHT - NEGLIGENCE**

**Plaintiff Ann O'Donovan v. NIRA**

79. The previous paragraphs are incorporated herein by reference.

80. The negligence and carelessness of defendant National In-Line Racing Association and its agents, servants and employees, included the following:

- (a) Creating a dangerous condition of the Bethlehem Skateaway property, to wit, the unprotected doorway;
- (b) Creating a hazardous condition of the Bethlehem Skateaway property, to wit, the unprotected doorway;
- (c) Failure to provide a safe and hazard-free environment for its business invitees, including Ann O'Donovan;

- (d) Failing, despite actual and/or constructive knowledge, to maintain Bethlehem Skateaway in a safe and hazard-free condition for the protection of its business invitees, including Ann O'Donovan;
- (e) The failure to insure a safe and hazard-free condition for its business invitees, including Ann O'Donovan;
- (f) Failure to properly maintain the premises of Bethlehem Skateaway;
- (g) Failure to correct the dangerous condition that existed on the premises of Bethlehem Skateaway;
- (h) Failure to inspect the area where the incident occurred to insure a safe environment for its business invitees;
- (i) Failure to take appropriate measures to anticipate an incident such as that which occurred to Ann O'Donovan;
- (j) Negligence under the Restatement of Torts (2d) §343;
- (k) Failure to exercise reasonable and prudent care under the circumstances;
- (l) Failure to provide proper management of Bethlehem Skateaway to include proper maintenance and inspection of the roller skating rink;
- (m) Failure to take proper precautions to eliminate the dangerous condition of the Bethlehem Skateaway premises on the date and time in question;
- (n) Failure to comply with applicable local, state and federal regulations regarding maintenance of a roller skating rink;
- (o) Failure to warn business invitees, including Ann O'Donovan, of the dangerous condition of the Bethlehem Skateaway premises;
- (p) Failure to ensure that the Bethlehem Skateaway race track met all safety rules and regulations promulgated by the NIRA and USA Roller Sports; and
- (q) Failure to inspect the Bethlehem Skateaway race track prior to the January 29, 2005 practice.

WHEREFORE, plaintiff demands compensatory damages against defendant, National In-Line Racing Association, individually, jointly and severally, in an amount in excess of One Hundred and Fifty Thousand Dollars (\$150,000.00) exclusive of costs, pre-judgment interest and post-judgment interest.

**COUNT NINE - NEGLIGENCE**  
**Plaintiff Ann O'Donovan v. USA Roller Sports**

81. The previous paragraphs are incorporated herein by reference.

82. The negligence and carelessness of defendant USA Roller Sports, its agents, servants and employees, included the following:

- (a) Creating a dangerous condition of the Bethlehem Skateaway property, to wit, the unprotected doorway;
- (b) Creating a hazardous condition of the Bethlehem Skateaway property, to wit, the unprotected doorway;
- (c) Failure to provide a safe and hazard-free environment for its business invitees, including Ann O'Donovan;
- (d) Failing, despite actual and/or constructive knowledge, to maintain Bethlehem Skateaway in a safe and hazard-free condition for the protection of its business invitees, including Ann O'Donovan;
- (e) The failure to insure a safe and hazard-free condition for its business invitees, including Ann O'Donovan;
- (f) Failure to properly maintain the premises of Bethlehem Skateaway;
- (g) Failure to correct the dangerous condition that existed on the premises Bethlehem Skateaway;
- (h) Failure to inspect the area where the incident occurred to insure a safe environment for its business invitees;
- (i) Failure to take appropriate measures to anticipate an incident such as that which occurred to Ann O'Donovan;

- (j) Negligence under the Restatement of Torts (2d) §343;
- (k) Failure to exercise reasonable and prudent care under the circumstances;
- (l) Failure to provide proper management of Bethlehem Skateaway to include proper maintenance and inspection of the roller skating rink;
- (m) Failure to take proper precautions to eliminate the dangerous condition of the Bethlehem Skateaway premises on the date and time in question;
- (n) Failure to comply with applicable local, state and federal regulations regarding maintenance of a roller skating rink; and
- (o) Failure to warn business invitees, including Ann O'Donovan, of the dangerous condition of the Bethlehem Skateaway premises;
- (p) Failure to ensure that the Bethlehem Skateaway race track met all safety rules and regulations promulgated by the NIRA and USA R/S; and
- (q) Failure to inspect the Bethlehem Skateaway race track prior to the January 29, 2005 practice.

WHEREFORE, plaintiff demands compensatory damages against defendant, USA Roller Sports, individually, jointly and severally, in an amount in excess of One Hundred and Fifty Thousand Dollars (\$150,000.00) exclusive of costs, pre-judgment interest and post-judgment interest.

**COUNT TEN - RECKLESSNESS**  
**Plaintiff Ann O'Donovan v. All Defendants**

83. The preceding paragraphs are incorporated by reference here as though set forth in their entirety.

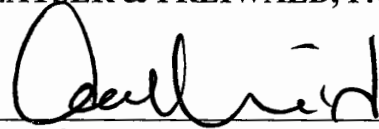
84. The actions of defendants were not merely acts of inadvertence, but rather were reckless, outrageous and in knowing disregard to the risks of severe harm to Ann O'Donovan and others.

85. The reckless conduct of defendants warrants the imposition of punitive damages in addition to damages to compensate Ann O'Dovovan for her injuries and losses.

WHEREFORE, plaintiff demands punitive damages against defendant, USA Roller Sports, individually, jointly and severally, in an amount in excess of One Hundred and Fifty Thousand Dollars (\$150,000.00) exclusive of costs, pre-judgment interest and post-judgment interest.

**LAYSER & FREIWALD, P.C.**

BY:

  
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PATRICIA M. GIORDANO, ESQUIRE  
Attorneys for Plaintiff

DATED: 3/27/06